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PAT/TM Due Date

2-2-04

6-2-04 final

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In re Application of
Nanping Wu
Application No. 09/891,576
Filed: June 25, 2001
Attorney Docket No. 210030

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 29, 2003, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled ☐Renewed Petition under 37 CFR 1.137(b). ☐ This is not final agency action within the meaning of 5 U.S.C. 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

As to Item (1), There is no indication that a response to the Office action mailed July 18, 2002 has been submitted. Accordingly, a proper reply to the Office action must be submitted before revival of the application can be effected.

The required reply to a non-final action in a non-provisional application abandoned for failure to prosecute may be either: (A) an argument or an amendment under 37 CFR 1.111 or; (B) the filing of a continuing application under 37 CFR 1.53(b).

The grant of a petition under 37 CFR 1.137 is not a determination that any reply under 37 CFR 1.111 is complete. Where the proposed reply is to a non-final Office action, the petition may be granted if the reply appears to be bona fide. After revival of the application, the patent examiner may, upon more detailed review, determine that the reply is lacking in some respect. In this limited situation, the patent examiner should send out a letter giving a 1-month

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shortened imited situation, the patent examiner should send out a letter giving a 1-month shortened statutory period under 37 CFR 1.135(c) for correction of the error or omission. Extensions of time under 37 CFR 1.136(a) are permitted. If applicant does not correct the omission within the time period set in the letter (including any extension), the application is again abandoned. See MPEP 711.03(c).

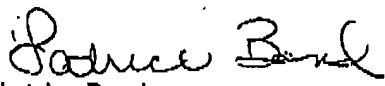
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Telephone inquiries concerning this decision should be directed the undersigned at (703) 308-6911.


Latrice Bond
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: non-final Office action